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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/646,183	09/14/2000	Ulrike Breiner	48876	5543

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EXAMINER
SZEKELY, PETER A

ART UNIT	PAPER NUMBER
1714	

DATE MAILED: 07/24/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/646,183

Applicant(s)

Breiner et al

Examiner

Seckely

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 02/26/02
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-9 and 11-13 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-9 and 11-13 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☒ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-9 and 11-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. The phrase "carboxylic acid derivatives" renders claims 1-9 and 11-13 indefinite. Carbon dioxide is a carboxylic acid derivative. It is derived by burning. See also *Petrolite Corporation v. Watson*, Comr. Pats., (DC DC 1957), 113 USPQ 248, and *Austen Laboratories, Incorporated v. Nobilium Processing Company of Chicago et al.*, (DC Nill 1957), 115 USPQ 44, both enclosed. The expression "sheetlike structures" renders claim 13 indefinite.

### ***Claim Rejections - 35 USC § 102***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 1-9 and 11-13 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Rody et al. 4,234,700, in view of Kimura et al. 5,714,612.

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6. Rody et al. disclose condensation polymers, among them polyamides containing polyalkyl piperidene radicals, from column 1, line 53, to column 5, line 43, and column 11, line 58, to column 15, line 20. See also Examples 1-13 where polyamides containing hindered amines, having molecular weights up to 6100 are shown. Rody et al. do not mention pigments, but Kimura et al. teach from column 9, line 42, to column 10, line 15, that both hindered amines and pigments can be added to polyamides during polymerization. Applicants' claims are not novel. In the alternative, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add the pigment of Kimura et al., to the reaction kettle of Rody et al., since it is shown that all of the additives listed in column 9, lines 52-62 can be added during polymerization. It is also would have been obvious to one having ordinary skill in the art, at the time the invention was made, to use the products of Rody et al. for the manufacture of sheets, filaments, fibers or moldings, since their excellent stability would make them more resistant to environmental degradation.

#### ***Response to Arguments***

7. Applicant's arguments filed 02/20/02 have been fully considered but they are not persuasive. The polymeric stabilizer of Rody et al. can be a polyamide, reading on applicants' claims. There is nothing in the instant claims regarding required molecular weights, which would make the invention successful. Rody et al. do not restrict the molecular weight of their polymeric stabilizers. Example 11 shows a polyamide having a molecular weight of 6100. If applicants

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were willing to limit their invention to a polyamide having a Relative Viscosity of 1.20-2.47 and were able to prove that the above range represents a molecular weight range which is higher than 6100, this rejection would be obviated. Under the present conditions however, the rejection is maintained.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Szekely whose telephone number is (703) 308-2460. The examiner can normally be reached on Tuesday-Friday from 7:00 a.m. to 5:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on (703) 306-2777. The fax phone number for the organization where this application or proceeding is assigned is (703) 873-9311 (After-Final) and (703) 872-9310 (Non After-final).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



**Peter Szekely**  
**Primary Examiner**  
**Art Unit 1714**